



Dan Caplice  
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05/27/2004 04:53 PM

To  
Subject R. Lavin Cleanup Status

Unfortunately, there is a bit of bad news to report today. When we originally projected that we could complete all of the work by the end of May, we did not anticipate that May would be one of the wettest on record. As we have all seen on the news over the past week, northeastern Illinois and southern Wisconsin have received record rainfalls that have resulted in significant flooding in the Des Plaines River basin. As a result, we have not yet been able to transport any water off site to the treatment facility in Bristol, Wisconsin which is also a POTW that has been overwhelmed by the flood waters. Based on conversations with Bristol officials this afternoon, they have told us that they can not take any of the water until next week at the earliest. They have asked that we contact them at that time to verify conditions and obtain final approval to deliver the water. We will keep our fingers crossed and hope that the predicted weekend storms do not turn out to be major rain events. I will update everyone regarding the schedule on Tuesday.

-----Original Message-----

From: Chad H Gettleman [mailto:CGettleman@ag-ltd.com]  
Sent: Thursday, May 27, 2004 2:46 PM  
To: 'RBURLINGHAM@atg.state.il.us'; 'peter.orlinsky@epa.state.il.us'; 'rcazeau@atg.state.il.us'  
Cc: 'kawakami.cynthia@epa.gov'; 'Robert.Darnell@usdoj.gov'; 'abrams@ajworkout.com'; 'eisenhuth@ajworkout.com'; 'toby@shinebros.com'; 'doddya@aol.com'; 'eisenhuthg@aol.com'; 'Alan.Tenenbaum@usdoj.gov'; 'rreott@reottlaw.com'; 'funk@dlec.com'; 'jdjeep@enviroatty.com'; 'ciaraujo@enviroatty.com'; 'Bruce.Kugler@epa.state.il.us'; Dan Caplice; benning.bradley@epa.gov; leerose17@hotmail.com  
Subject: RE: Lavin - Real estate sale motion

To all,

This will confirm that the continued status hearing on the Lavin real estate motion has been set for Tuesday, June 8, 2004 at 10:30 a.m., Chicago time.

As I informed the Judge at this past Tuesday's status hearing (which was attended in person by Rebecca and Peter, and by Alan via telephone), the Committee is getting quite frustrated over the time and costs (including legal fees) it is incurring in its continued sales efforts. Our inability to sell this property to the City will benefit absolutely no one.

While I appreciate that there are certain considerations that the City, state and feds need to examine, the fact remains that the Committee is not prepared to indefinitely sit by and voluntarily allow the entire (and very limited) Lavin estate be consumed in carrying costs for this property for everyone's benefit other than the Lavin creditors. Absent a resolution by the next status hearing, we have recommended that the Committee immediately

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thereafter seek the Court's intervention to modify the liquidating plan to permit the Committee to vacate the premises while still retaining the estate's rights under any eminent domain proceeding. We are not willing to abandon the property if that would result in the estate being unable to recover the fair market value for the property when the City ultimately proceeds with its eminent domain action. Merely waiting out the Committee should not be an option. Whether the Court would grant such relief is unknown, but suffice it to say from anyone who has attended the many hearings held in the Lavin case since the Judge was assigned this case, she has been extremely supportive of the Committee's efforts as she has recognized that the Committee and its constituency (the creditors) did not create this mess and are doing their best to maximize the distribution to Lavin's creditors, clean up the property and resolve the many different competing interests in a manner beneficial to all concerned. Please recognize that we are not trying to threaten anyone - its just that without the sale being approved now, we will have no better options available to us and will have to do something. I am confident the Judge will assist the Committee in any way she can.

As a bit of good news, we are proceeding with completing the AOC work. As Dan Caplice has advised Brad Benning, although Dan will not be able to complete site work before the end of this month as initially hoped, Dan anticipates moving 30 to 50 percent of the water between this week and next so that we will be set to clean the big tank at the south end on Tuesday, June 1 or iwthin a few days thereafter. Weather permitting , Dan should be able to complete all of the site work except for the actual disposal by June 11, 2004.

We are continuing to explore the possibility of obtaining certain insurance coverage which could be a condition of closing and hopefully address the state's financial assurance concerns. We are optimistic that we will be able to obtain certain insurance coverage. To that end, we hope to circulate a revised proposed sale order to everyone shortly.

As always, we remain totally committed to resolving the property sale in an amicable manner acceptable to all parties.

Regards,

Chad

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Thank you.

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